IN THE HIGH COURT OF GUJARAT AT AHMEDABAD.

SPECIAL CIVIL APPLICATION No 3740 of 1988

For Approval and Signature :

Hon'ble MR. JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the Judgment ?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the Judgment ?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

MAHENDRA H PATHAK
VERSUS
STATE OF GUJARAT & ORS.

Appearance:
MR JJ YAGNIK for Petitioner
MR HH PATEL for Respondent No.1
MR GAURANG BHATT for Respondents No.2 and 3

CORAM : MR JUSTICE S.K. KESHOTE
Date of Decision : 17/02/2001

C.A.V. JUDGMENT

#. Heard the learned counsel for the parties.

#. This petition was admitted on 15th July, 1988. The order of this Court reads as under:

> Rule to be heard with Sp. C.A. No.343/86. Ad interim relief restraining respondents from terminating petitioner's service only on the basis that he is appointed on 29 days' work tenure. Direct service. Notice as to interim returnable on 12-8-1988.

#. So this petition was directed to be heard with special civil application No.343/86. Copy of the judgment which has been delivered in the special civil application No.343/86 is there on the record. This petition has been decided by the Court on 15th October, 1999 and the same was dismissed. On 9th December, 1999, this matter came up for hearing before the court, on which date, learned advocate appearing for the petitioner submitted that this matter though is ordered to be heard with special civil application No.343/86, but it is a mistake in that number as this special civil application No.343/86 is disposed of and it is not connected with this matter. What the petitioner's counsel submitted that in another special civil application No.3119/89 involves same or similar question amongst the parties, hence it may be listed with this matter. Accordingly, the Court ordered. However, office reported that the papers of that matter are not traceable.

#. I have gone through the judgment of this Court delivered in special civil application No.343/86 and I am satisfied that this matter is similar to this case and rightly this Court ordered for hearing of this matter with that petition. There also the question was of termination of an employee who has been given appointment on 29 days basic. There grievance has been made that the action of the respondents of giving artificial break on 30th day is illegal, invalid and inoperative in law. Prayer has also been made to direct the respondents to pay wages for artificial break and to grant all benefits as per law considering the petitioner in continuous permanent service from the initial date of his appointment. In this petition also, prayer has been made that the action of the respondents in not regularising the services of the petitioner and in terminating the service of the petitioner by adopting the modus operandi of 29 days' appointment is illegal, unjust, arbitrary and discriminatory. So substantial prayers are also identical. This matter is squarely

covered by the decision of this Court in special civil application No.343/86 decided on 15th October, 1999, (Coram: S.K. Keshote,J) and nothing in detail needs to be gone into in this matter. Here also, the petitioner was given the appointment for 29 days and this appointment comes to an end by efflux of time. It is not a case where any relief can be granted to such class of employees otherwise it will result in providing another mode of recruitment in service dehors the service rules. It will also encourage and open flood gates for corruption, favouritism and nepotism. These are nothing but only back door appointments on the basis of which no relief of the nature as prayed for can be granted. These appointments are for fixed terms which comes to an end on expiry of the term.

#. In the result, this petition fails and the same is dismissed. Rule discharged. Interim relief, if any, granted stands vacated. In the facts of this case, no order as to costs.

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zgs/-